IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21088 of 2004

Between:

1 K. Rajaiah, S/o. Venkataiah,
R/o. Ramagundam, Karimnagar District.
2 G. Kistaiah, S/o. Ramaswamy,
R/o. Ramagundam, Karimnagar District.
3 Jaffer Khan, S/o. Khader Khan,
R/o. Ramagundam, Karimnagar District.
4 C.B. Ramachandram, S/o. Odelu,
R/o. Ramagundam, Karimnagar District.

..... PETITIONERS

AND

-

1 The Chairman and Managing Director, AP Genco, Vidyut

Soudha, Somajiguda, Hyderabad.
2 The Chief Engineer (O&M), AP GENCO, Ramagundam

Thermal Power B. Station, Ramagundam, Karimnagar

District.
3 D. Rakesh Kumar, O/o. Chief Engineer, O & M,

Ramagundam Thermal Station, Ramagundam.
4 T. Chaitanya Kumar, O/o. Chief Engineer, O & M,

Ramagundam Thermal Station, Ramagundam.
5 A. Srinivas, S/o. Permaiah, O/o. Chief Engineer, O & M,

Ramagundam Thermal Station, Ramagundam.
6 Shaik Ismail Pasha, O/o. Chief Engineer, O & M,

Ramagundam Thermal Station, Ramagundam.
7 G.L.N. Chary, O/o. Chief Engineer, O & M, Ramagundam

Thermal Station, Ramagundam.
8 K. Venkat Ram, O/o. Chief Engineer, O & M,

Ramagundam Thermal Station, Ramagundam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a Writ in the nature of Writ of Mandamus or any other appropriate writ or Writs, Order Direction, declaring the proceedings dt.6. 10.2004 in Memo No.CER/ADM/JAO/F. DPC 52/D.No. 774/04 on the file of the 2nd respondent as illegal, arbitrary and without Jurisdiction and to consequently set aside the promotions made in respect of Respondents No.3 to 8 herein by further directing the 2nd respondent to forthwith promote the petitioners as Plant Operators; Award costs.

Counsel for the Petitioners: MR.K.RAGHUVEER REDDY

Counsel for Respondent Nos.1 & 2: SMT.K.SESHARAJYAM (SC FOR AP GENCO)

The Court made the following :

ORDER:

This writ petition is filed to declare the proceedings dated 6-10-2004 in Memo No.CER/ADM/JAO/F.DPC 52/D.No.774/04 on the file of the 2nd respondent as illegal and arbitrary.

Initially, the petitioners were appointed as casual labourers. Subsequently, they

were selected as Junior Plant Attendants. A seniority list in the cadre of Junior Plant Attendants was prepared by the office of the 2nd respondent on 17.7.2004, wherein the name of the first petitioner was shown at Sl.No.13 and the names of the petitioner Nos.2 to 4 were shown at Sl.Nos.10, 11 & 12 respectively, whereas the names of the respondents 3 to 8 were shown at Sl.Nos.15 to 20. Contrary to the seniority list, the second respondent issued the impugned proceedings promoting the respondents 3 to 8 herein as Plant Operators. Hence the writ petition.

Heard learned counsel for the petitioners. In spite of service of notice to the respondents 3 to 8, none appeared for them.

Respondent Nos.1 and 2 filed counter affidavit stating inter alia that the petitioners were shown above the respondents 3 to 8 in the seniority list of Junior Plant Attendants. As per the service prescribed by the management and the procedure in vogue to consider the cases of any individual for promotions on the date of conducting interview by the Departmental Promotion Committee, the eligible candidates should not have any disciplinary case pending against him nor there should be any legal case pending against him in any court. In this case the reasons for not considering the case of the petitioners for promotion are that there are two different writ petitions filed by them were pending.

The learned counsel for the petitioners contended that promotion to the post of Junior Plant Operators from the category of Junior Plant Attendants is only by taking into consideration the seniority of the individuals. Admittedly even according to the petitioners 1 and 2, they were senior to respondents 3 to 8 herein. Therefore, the petitioners also eligible for promotion to the Plant Operators. Hence the petitioners may be given promotion on par with their juniors.

On the other hand learned Standing Counsel appearing for the respondents 1 and 2 contended that, it is the Departmental Promotion Committee that has to consider the cases of the individuals for promotions duly taking into consideration all the aspects. Since there was two writ petitions pending against the petitioners, their cases were not considered for promotion. Therefore, as the respondents 3 to 8 are duly qualified and eligible to the promotions, the Departmental Promotion Committee had given promotions to

them. Therefore, the impugned order does not suffer from any incurable legal infirmity, which calls for interference of this court. Hence the writ petition may be dismissed.

As seen from the affidavit, it is clear that the petitioners are senior to the respondents 3 to 8. According to the learned counsel for the petitioner, promotion to the post of Plant Operators is a seniority post and the petitioners are fully qualified and are eligible to promote as Plant Operators. Even the respondents 1 and 2 did not state any reasons for not giving promotion to the writ petitioners. In any view of the matter, the Departmental Promotion Committee has to take appropriate decision, whether the petitioners are eligible to promote as Plant Operators or not, since admittedly the respondents 3 to 8, who are juniors to the petitioners, were given promotion as Plant Operators.

In the absence of any reason for denial of the same benefit to the petitioners, I deem it appropriate to direct the respondents 1 and 2 to place the matter before the Departmental Promotion Committee within a period of two months from the date of receipt of a copy of this order. The Departmental Promotion Committee shall have to consider the case of the petitioners for promotion as Plant Operators on par with their juniors, who were already given promotion, in accordance with regulations, in pursuance of the proceedings dated 6-10-2004.

With the above directions, the Writ Petition is disposed of. No costs.

_____

K.C. Bhanu, J.

11th February, 2005

js.

To

1 The Chairman and Managing Director, AP Genco, Vidyut

Soudha, Somajiguda, Hyderabad.

2 The Chief Engineer (O&M), AP GENCO, Ramagundam

Thermal Power B. Station, Ramagundam, Karimnagar

District.

3 2 CD copies.